



WEB COPY



CRP.No.1929 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.04.2023

DELIVERED ON : 11.03.2024

CORAM

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

CRP.No.1929 of 2020

and

C.M.P.No.11801 of 2021

Muthusarangan : Respondent/Respondent/Petitioner

Vs.

N.A.S.Ansari : Petitioner/Respondent/Petitioner

PRAYER: Civil Revision Petition filed under Article 227 of Constitution of India, to set aside the fair and final order of the learned Principal District Munsif, Chidambaram dated 30.06.2020 made in I.A.No.8 of 2019 in R.C.O.P.No.1 of 2017.

For Petitioner : Mr.B.Jawahar
For Respondent : Mr.P.Dinesh Kumar

ORDER

This Civil Revision Petition has been filed to set aside the order of the learned Principal District Munsif, Chidambaram in I.A.No.8 of 2019 in R.C.O.P.No.1 of 2017 dated 30.06.2020.

<https://www.mhc.tn.gov.in/judis> 2. The learned Counsel for the Revision Petitioner submitted that the



CRP.No.1929 of 2020

Revision Petitioner is a tenant in the property, which he had taken on lease in the year 1980. The Respondent herein filed a Petition in R.C.O.P.No.11 of 1981 claiming to be the landlord. The Revision Petitioner as Respondent in R.C.O.P.No.11 of 1987 had filed counter disputing the contentions of the so-called landlord. After due enquiry, R.C.O.P.No.11 of 1981 was dismissed. Aggrieved by the same, the Petitioner in R.C.O.P.No.11 of 1981, the landlord filed R.C.A.No.27 of 1985. R.C.A.No.27 of 1985 was allowed. In continuation of the same, the landlord/Petitioner in R.C.O.P.No.11 of 1981 had filed Execution Petition in E.P.No.13 of 2014 in R.C.O.P.No.11 of 1981.

3. The learned Counsel for the Revision Petitioner contended that the Revision Petitioner had taken lease on a portion of the property which was thatched shed measuring 10 ft. x 14 ft. Throughout the R.C.O.P.No.11 of 1981 and E.P.No.13 of 2014 in R.C.O.P.No.11 of 1981 the schedule of property was described with measurements 10 ft. x 14 ft. with thatched roof. Subsequently, the very same person filed R.C.O.P.No.1 of 2017 before the learned Principal District Munsif, Chidambaram, claiming that the property is the RCC building. The Petitioner herein, who is the Respondent in R.C.O.P.No.1 of 2017 disputes the contention of the Petitioner in R.C.O.P.No.1 of 2017, stating that the Petitioner herein as



CRP.No.1929 of 2020

Respondent in R.C.O.P.No.1 of 2017, had purchased the property adjacent to the leased-out premises, which was a portion of the property measuring 10 ft. x 14 ft. and thatched. The property adjacent to the leased out premises was purchased by the Respondent in R.C.O.P.No.1 of 2017 which he had developed into an RCC building. The Petitioner in R.C.O.P.No.1 of 2017, falsely claiming that the property as though belonged to him, had filed R.C.O.P.No.1 of 2017 to fix the fair rent. In continuation of the same, the Petitioner in R.C.O.P.No.1 of 2017 had filed Petition in I.A.No.8 of 2019 in R.C.O.P.No.1 of 2017 seeking appointment of an Advocate Commissioner to make local inspection and to file a report regarding physical features of the property in R.C.O.P.No.1 of 2017. The Respondent in R.C.O.P.No.1 of 2017 as well as the Respondent in I.A.No.8 of 2019 in R.C.O.P.No.1 of 2017 had filed counter disputing the claim of the Petitioner in I.A.No.8 of 2019 in R.C.O.P.No.1 of 2017, stating that in R.C.O.P.No.11 of 1981, he had described the property measuring 10 ft. x 14 ft. thatched shed, whereas he claims more than that area, which was not the property of the Petitioner in R.C.O.P.No.1 of 2017, but which was purchased by the Respondent in R.C.O.P.No.1 of 2017.

4. After due enquiry, the learned Principal District Munsif, Chidambaram allowed the I.A.No.8 of 2019 in R.C.O.P.No.1 of 2017,



CRP.No.1929 of 2020

stating that the Respondent had not furnished any document as proof of his claim regarding the property which was purchased by him in which he had put up RCC construction. Therefore, for better appreciation of evidence, the appointment of an Advocate Commissioner is justified. Therefore, I.A.No.8 of 2019 in R.C.O.P.No.1 of 2017 was allowed.

5. Aggrieved by the order passed by the learned Principal District Munsif, Chidambaram, allowing the I.A.No.8 of 2019 in R.C.O.P.No.1 of 2017, the Civil Revision Petition had been filed by the Respondent in R.C.O.P.No.1 of 2017, who was also Respondent in I.A.No.8 of 2019 in R.C.O.P.No.1 of 2017.

6. It is the contention of the Revision Petitioner that the Petitioner/landlord who claims that the Respondent is enjoying the property after having put up RCC construction. Instead, he had filed I.A.No.8 of 2019 in R.C.O.P.No.1 of 2017, seeking an Advocate Commissioner Report for the property beyond the measurement mentioned as property in the earlier R.C.O.P.No.11 of 1981 filed by him, which is the property described in E.P.No.13 of 2014 in R.C.O.P.No.1 of 2017. Therefore, he seeks to set aside the Order passed by the learned Principal District Munsif,



CRP.No.1929 of 2020

Chidambaram in I.A.No.8 of 2019 in R.C.O.P.No.1 of 2017 dated 30.06.2020.

7. The learned Counsel for the Respondent vehemently objected to the line of the arguments of the learned Counsel for the Revision Petitioner stating that the earlier round of litigation ended in favour of the landlord who is the Respondent in CRP.No.1924 of 1988.

8. The learned Counsel for the Respondent placed reliance on the ruling reported in **1996-2-L.W-315** in the case of **NAS.Ansari Vs. M.Sarangan**. On the basis of the very same earlier Order, the present RCOP is filed giving out details of the property. I.A.No.8 of 2019 in RCOP.No.1 of 2017 is filed for appointment of Advocate Commissioner to inspect the suit property, note down the physical feature, find out the value of the building, value of amenities, electric service connection with the help of P.W.D Engineer and file his detail report so that the Court can decide on merits.

9. The contention of the Revision Petitioner is that the Revision Petitioner obtained title from one Saraswathiammal in the year 1984 and the northern portion of the property belongs to wife of the Revision Petitioner and she had put up construction. Therefore, the Respondent has no title



CRP.No.1929 of 2020

cannot be considered. The objection of the Revision Petitioner that the details of the property is vague in RCOP.No.1 of 2017. Also, cannot be allowed. Also, first round of litigation is ended in favour of the Respondent herein. Even after the earlier round of litigation ended in favour of the landlord in CRP.No.1924 of 1988, Revision Petitioner herein is disputing the title of the landlord and had filed counter in I.A.No.8 of 2019 stating that the landlord is attempting to collect evidence. It is the clear case of the landlord and Petitioner in RCOP.No.1 of 2017 and Petitioner in I.A.No.8 of 2019 in RCOP.No.1 of 2017 that for just determination of the value of the property that the property has to be measured with the help of qualified PWD Engineer and detail report to be obtained. So that, the Court can arrive at a just conclusion. RCOP.No.1 of 2017 is filed for fixing fair rent for the building. In the Petition itself, it is stated that the Respondent had disputed the title and fair pay rent. Therefore, the earlier RCOP.No.11 of 1981 which is final. Even after, the CRP.No.1924 of 1988 ended in favour of the landlord, the tenant as Respondent in E.P. had been continuously filing Petition and thereby protracting the proceedings.

10. The description of property is also given in RCOP. No.1 of 2017. In continuation of the same only I.A.No.8 of 2019 is filed seeking for appointment of an Advocate Commissioner, boundaries of the property had



CRP.No.1929 of 2020

been specifically giving due details of the building in Door No.64, Area No. 3, Block No.11 and Town Survey No.572 with specific boundaries. The Revision Petitioner cannot be permitted to deny title. The objection by the Revision Petitioner is unacceptable in the light of the earlier finding given by this Court in CRP.No.1924 of 1988. Therefore, this Civil Revision Petition had to be dismissed in the light of the earlier order of this Court in CRP.No.1924 of 1988.

Point for Consideration:

Whether the Order passed by the learned Principal District Munsif, Chidambaram allowing the IA.No.8 of 2019 in RCOP.No.1 of 2017 is to be set aside as perverse?

11. Heard the learned Counsel for the Petitioner and the learned Counsel for the Respondent. Perused the typed set wherein the copies of Petition, Counter in the earlier RCOP.No.11 of 1981 and Petition and counter in E.P.No.13 of 2014, Petition, Affidavit and counter in I.A.No.8 of 2019 in RCOP.No.1 of 2017. Also, perused the rulings cited by the learned Counsel for the Petitioner.

12. On perusal of the Order passed by the learned Principal District Munsif, Chidambaram, it is found that the Order passed by the learned



CRP.No.1929 of 2020

Principal District Munsif is proper, it cannot be construed as perverse.

WEB COPY

13. As pointed out by the learned Counsel for the Respondent in CRP.No.1924 of 1988 ended in favour of the landlord. In continuation of the same, he had filed E.P.No.13 of 2014 just still pending before the learned Principal District Munsif, Chidambaram. While so, the tenant who disputed the title of the landlord in the earlier proceeding in RCOP.No.11 of 1981 last at the level of this Court in CRP.No.1924 of 1988. Therefore, the Order passed by this Court in CRP.No.1924 of 1988 had become final. Also, while disputing the title and the tenant had put up construction converting Thutch shed in to RCC building. Therefore, the fresh RCOP filed by the landlord in RCOP.No.1 of 2017 seeking to fix the fair rent. In the RCOP.No.1 of 2017, the fore-side boundaries are given and door number, town survey number, area subjected to the lease property also mentioned as in the earlier proceedings, the tenant had disputed the claim of the Petitioner in RCOP/landlord. Considering the earlier CRP.No.1924 of 1988 ended in favour of the landlord and the fresh RCOP.No.1 of 2017 filed by the landlord to fix the fair rent. The Order passed by the learned Principal District Munsif allowing the IA.No.8 of 2019 in RCOP.No.1 of 2017 dated 30.06.2020 is found reasonable.



CRP.No.1929 of 2020

14. In support of the contention, the following rulings cited by the learned Counsel for the Respondent for appointment of Advocate Commissioner are all justified:

(I) *MANU/TN/2074/2013* in the case of *N.Kalidas Vs. K.P.Subbaiyan*

(ii) *MANU/TN/1174/2021* in the case of *Selvaraj Vs. A.Jeganathan*

(iii) *2011 (5) CTC 612* in the case of *Rabiya Basheer Ali Vs.*

C.Devendra Prasad

(iv) *1999-1-L.W.430* in the case of *K.Sivarajah Vs. B.K.N.Rajaram*

(v) *1996-2-L.W.315* in the case of *N.A.S.Ansari Vs. M.Sarangan*

(vi) *1996 (I) CTC 229* in the case of *A.Nagarajan Vs.*

A.Madhanakumar.

15. In Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 the procedure permitting the valuation of the leased premises by PWD Engineer to assist the Advocate Commissioner to note down the physical feature as well as to find out the site value of the property that cannot be construed as filling up the lacuna or collecting evidence. Considering the superstructure, it has to be assessed with the help of PWD Engineer alone who assist the Advocate Commissioner. The same cannot be rejected based on the



CRP.No.1929 of 2020

contention of the tenant who had lost the earlier round of litigation. When an earlier litigation rejected, the contention of the Respondent disputing the title of the landlord, he cannot place reliance on the very same round to deny the title in subsequent proceeding also. The other contention can be considered only during evidence. During enquiry in RCOP proceedings, whether the wife of the tenant had purchased the property as claimed by the tenant, whether she had put up construction are all subject to the appreciation of evidence by the learned Principal District Munsif, Chidambaram as Rent Controller. Before deciding the RCOP, at the earliest stage, I.A is filed. So that, the RCOP can be decided by the learned Rent Controller. There is nothing wrong in the Order passed by the learned Principal District Munsif permitted to appoint Advocate Commissioner to be assisted by the PWD Engineer. Based on the report filed by the Advocate Commissioner with the aid of PWD Engineer, the earlier can decide the fair rent, it is not fair on this Court to reject or set aside the Order passed by the learned Rent Controller which will result in denying at the initial stage, the attempt of the landlord seeking fair rent.

16.The submission of the learned Counsel for the Revision Petitioner cannot at all be accepted in the light of the earlier Order of this Court in



CRP.No.1929 of 2020

CRP.No.1924 of 1988 and the same is rejected.

WEB COPY

17.In the light of the above discussions, the point for consideration is answered in favour of the Respondent and against the Petitioner. The Order passed by the learned Principal District Munsif, Chidambaram in I.A.No.8 of 2019 in R.C.O.P.No.1 of 2017 dated 30.06.2020 is not perverse.

In the result, this ***Civil Revision Petition is dismissed.*** The Order passed by the learned Principal District Munsif, Chidambaram in I.A.No.8 of 2019 in R.C.O.P.No.1 of 2017 dated 30.06.2020 is confirmed. The learned Principal District Munsif is directed to proceed further with the enquiry and dispose of the RCOP No.1 of 2017. No costs. Consequently, connected miscellaneous petition is closed.

11.03.2024

Index: Yes/No
Internet: Yes/No
Speaking Order/Non-speaking Order

dh

To

The Principal District Munsif,
Chidambaram.



WEB COPY



CRP.No.1929 of 2020

SATHI KUMAR SUKUMARA KURUP, J.

dh

Order made in

CRP.No.1929 of 2020

11.03.2024